

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CIVIL REVISION APPLICATION No 498 of 1997

For Approval and Signature:

Hon'ble MR.JUSTICE M.C.PATEL

- =====
1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO
 2. To be referred to the Reporter or not? : NO
 3. Whether Their Lordships wish to see the fair copy of the judgement? : NO
 4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO
 5. Whether it is to be circulated to the Civil Judge? : NO

GIRISHKUMAR DEV SHANKER JANI

Versus

STATE OF GUJARAT

Appearance:

1. Civil Revision Application No. 498 of 1997
MR DJ BHATT for Petitioner No. 1
MR BD DESAI, Ld. AGP for Respondent No. 1-2
NOTICE SERVED for Respondent No. 3
MR RN JADEJA for Respondent No. 4
DELETED for Respondent No. 5

CORAM : MR.JUSTICE M.C.PATEL

Date of decision: 25/09/2001

ORAL JUDGEMENT

1. Heard learned Counsel for the respective parties.

The petitioner is the plaintiff in Civil Suit No.242/1991 in the Court of Civil Judge (S.D.) at Himatnagar. He has filed the said suit in the Trial Court along with the present respondent No.5 for declaration and injunction to restrain the defendants from interfering with their possession of the suit land admeasuring 7 acres and 25 gunthas out of the Survey No.462, situated at Modeti, Taluka Idar, Dist. Sabarkantha. They also prayed for temporary injunction in the same terms. The Trial Court granted the injunction in their favour, but in appeal, the learned Extra Assistant Judge at Himatnagar set aside the order of the Trial Court and dismissed petitioners' application for temporary injunction.

2. Petitioner, being aggrieved by the said order of the Appellate Court, has filed this Revision Application under Section 115 of the Civil Procedure Code.

3. The Trial Court has recorded the finding that the entire survey number in question is declared to be reserved forest by notification dated 27th July, 1984. The notification was produced at mark 30/2 before the Trial Court.

4. Reliance is placed on behalf of the respondent on the order of the Hon'ble Supreme Court in Writ Petition (Civil) No.202/1995, passed on 12th December, 1996 clarifying the misconception prevailing in certain quarters about the true scope of the Forest Conservation Act, 1980. The learned Appellate Judge has also found that the petitioners have no prima facie case and it would not be in public interest if the petitioners are allowed to cultivate the suit land and the public interest should prevail over individual interest.

5. In the facts and circumstances, it cannot be said that the Appellate Court has committed any illegality or material irregularity in exercise of his jurisdiction. The order may be right or wrong or may or may not be in accordance with law but, as held by the Hon'ble Supreme Court in the case of "The Managing Director (MIG), Hindustan Aeronautics Ltd., Balanagar, Hyderabad Vs. Ajit Prasad Tarway, Manager (Purchase & Stores), Hindustan Aeronautics Ltd., Balanagar, Hyderabad", reported in AIR 1973 SC 76, it cannot be interfered with in revision. To continue interim relief and allow the petitioners to cultivate the land in question, which has been declared to be a part of the reserved forest will not be in public interest. Revision Application is, therefore, dismissed and interim relief stands vacated. Rule discharged. No order as to costs.

25-9-2001 (M.C. Patel, J.)

vinod